

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LIMETREE BAY TERMINALS, LLC d/b/a	:	
OCEAN POINT TERMINALS,	:	<u>ORDER AND JUDGMENT</u>
	:	<u>CONFIRMING ARBITRATORS'</u>
Petitioner,	:	<u>AWARD</u>
v.	:	
	:	22 Civ. 8169 (AKH)
UNIPAC AMERICA, INC.,	:	
	:	
Respondent.	:	
	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

The parties, Limetree Bay Terminals, LLC (dba Ocean Point Terminals) and Unipac America, Inc. have arbitrated their disputes and, after extensive proceedings and an opinion of the arbitrators, an Award was issued in New York, NY, September 14, 2022 and amended September 27, 2022. The parties petition and cross-petition for confirmation of the Award as amended, differing only in their interpretations and contentions.

The Court has jurisdiction over the subject matter and the parties, and has reviewed the submissions of the parties.

It is hereby ordered, adjudged, decreed:

(a) Under the Terminal Lease Agreement (“TLA”), the Operator, Limetree Bay Terminals, Inc. (d/b/a Ocean Point Terminals (“LBT”)) must aspire to meet the highest industry standards but, at a very minimum, must comply with standards equal to those of other comparable first- class operators of terminal facilities.

(b) Unipac America Inc.’s request for a declaration that it may terminate the TLA is denied.

(c) Under the TLA, Limetree Bay Terminals, LLC has the exclusive, unilateral right to determine which tanks shown on Schedule F of the TLA, as it may be amended from time-to-time by the agreement of the Parties, shall be utilized for the storage of Product owned by Unipac America, Inc., and LBT must give Unipac America, Inc. advance notice of such determination with respect to each cargo of Product delivered to the Terminal. However, once initially stored, Limetree Bay Terminals, LLC may not then move or transfer Unipac America, Inc.'s stored Product to any other tank, whether it is on Schedule F or otherwise, without Unipac America, Inc.'s prior consent.

(d) Unipac America, Inc. has breached the TLA by failing to pay Storage Fees due to Limetree Bay Terminals, LLC in the amount of \$20,758,606.67 and must pay to Limetree Bay Terminals, LLC the sum of \$20,758,606.67 within 30 days from transmittal of this Final Award to the parties. Unipac America, Inc. was invoiced and paid the amount so awarded.

(e) The administrative fees and expenses of the ICDR totaling \$46,408.14, and the compensation and expenses of the Arbitrators totaling \$568,420.40, shall be borne by Unipac America, Inc. in the amount of \$461,121.40 (75% of the total of these costs) and by Limetree Bay Terminals, LLC in the amount of \$153,707.14 (25% of the total of these costs). Therefore, Unipac America, Inc. shall reimburse Limetree Bay Terminals, LLC the sum of \$164,036.23, representing that portion of said fees and expenses in excess of the apportioned costs previously incurred by Limetree Bay Terminals, LLC upon demonstration by Limetree Bay Terminals, LLC that these incurred costs have been paid. Unipac America Inc. was invoiced and paid the amount so awarded.

The monetary awards against Unipec America, Inc., and in favor of Limetree Bay Terminals, LLC, provided by paragraph (e) are satisfied.

(f) All other claims and counterclaims are denied. This Final Award is in full settlement of all claims and counterclaims submitted in this arbitration.

The Clerk shall terminate all motions and close the case.

SO ORDERED.

Dated: April 10, 2023
New York, New York

/s/ Alvin K. Hellerstein
ALVIN K. HELLERSTEIN
United States District Judge